

To: Judith.Harvey@usdoj.gov[Judith.Harvey@usdoj.gov]
From: Christopher J. Neary
Sent: Fri 6/27/2014 1:50:23 PM
Subject: California River Watch v. City of Willits

Dear Ms. Harvey:

We had the Regional Board file copied yesterday but have not yet received the documents for our review. Absent some initiative pending by the Regional Board to address the discharge to groundwater we will likely file a new motion to intervene in the action. Since we first sought to intervene we have learned that the City's explanation for the missing wastewater was based upon data which had an 81,000,000 gallon error in the June 2013 self-monitoring report. While we are not the guardians of the public health, we do have a trial looming in which the plant project is a major issue. Although the stipulated judgment procedure might not have been preclusive against the U.S., we would certainly face the argument in front of the jury in our case---"those unmeritorious allegations were made in another lawsuit which was dismissed because the allegations were unmeritorious."

I want to point out something odd. I called the Judge's chambers on Monday morning to verify that it would be appropriate to file my letter by ECF and was assured that filing by ECF was the appropriate vehicle to send a letter to the judge. I filed it and it was assigned ECF #49. When I visited the docket on pacer yesterday I did not see ECF 49. Worried that there were other filings that were not visible I had my staff call the ECF Helpdesk and they were referred to the Judge's Chambers. The explanation from the Judge's chambers was that five hours after my letter was filed the case was "locked down" from ECF filing. This explanation is not apparent from the ECF webpage, or the docket, and suggests that there might have been other filings not visible and that reliance upon the ECF docket is not possible.

My cellphone number for your records is 707-841-7379.

Christopher Neary

Kind regards,

C. J. Neary

CHRISTOPHER J. NEARY

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